

Environmental Protection Agency

§ 80.1160

are subject to the provisions of §§ 80.1150 through 80.1152, and § 80.1164.

[72 FR 24000, May 1, 2007, as amended at 73 FR 57257, Oct. 2, 2008]

§ 80.1155 What are the additional requirements for a producer of cellulosic biomass ethanol or waste derived ethanol?

(a) A producer of cellulosic biomass ethanol or waste derived ethanol (hereinafter referred to as “ethanol producer” under this section) is required to arrange for an independent third party to review the records required in § 80.1151(c) and provide the ethanol producer with a written verification that the records support a claim that:

(1) The ethanol producer’s facility is a facility that has the capability of producing cellulosic biomass ethanol as defined in § 80.1101(a) or waste derived ethanol as defined in § 80.1101(b); and

(2) The ethanol producer produces cellulosic biomass ethanol as defined in § 80.1101(a) or waste derived ethanol as defined in § 80.1101(b).

(b) The verifications required under paragraph (a) of this section must be conducted by a Professional Chemical Engineer who is based in the United States and is licensed by the appropriate state agency, unless the ethanol producer is a foreign producer subject to § 80.1166.

(c) To be considered an independent third party under paragraph (a) of this section:

(1) The third party shall not be operated by the ethanol producer or any subsidiary of employee of the ethanol producer.

(2) The third party shall be free from any interest in the ethanol producer’s business.

(3) The ethanol producer shall be free from any interest in the third party’s business.

(4) Use of a third party that is debarred, suspended, or proposed for debarment pursuant to the Government-wide Debarment and Suspension regulations, 40 CFR part 32, or the Debarment, Suspension and Ineligibility provisions of the Federal Acquisition Regulations, 48 CFR, part 9, subpart 9.4, shall be deemed noncompliance with the requirements of this section.

(d) The ethanol producer must obtain the written verification required under paragraph (a)(1) of this section by February 28 of the year following the first year in which the ethanol producer claims to be producing cellulosic biomass ethanol or waste derived ethanol.

(e) The verification in paragraph (a)(2) of this section is required for each calendar year that the ethanol producer claims to be producing cellulosic biomass ethanol or waste derived ethanol. The ethanol producer must obtain the written verification required under paragraph (a)(2) of this section by February 28 for the previous calendar year.

(f) The ethanol producer must retain records of the verifications required under paragraph (a) of this section, as required in § 80.1151(c)(5).

(g) The independent third party shall retain all records pertaining to the verification required under this section for a period of five years from the date of creation and shall deliver such records to the Administrator upon request.

[72 FR 24000, May 1, 2007]

§§ 80.1156–80.1159 [Reserved]

§ 80.1160 What acts are prohibited under the RFS program?

(a) *Renewable fuel producer or importer violation.* Except as provided in § 80.1154, no person shall produce or import a renewable fuel without generating a batch-RIN as required under § 80.1126.

(b) *RIN generation and transfer violations.* No person shall do any of the following:

(1) Improperly generate a RIN (e.g., generate a RIN for which the applicable renewable fuel volume was not produced).

(2) Create or transfer to any person a RIN that is invalid under § 80.1131.

(3) Transfer to any person a RIN that is not properly identified as required under § 80.1125.

(4) Transfer to any person a RIN with a K code of 1 without transferring an appropriate volume of renewable fuel to the same person on the same day.

(c) *RIN use violations.* No person shall do any of the following:

(1) Fail to acquire sufficient RINs, or use invalid RINs, to meet the party’s